

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: OE-20-14(E) and OE-21-14

Relating to: Environmental analysis and review procedures under
Ch. NR 150 Wis. Admin. Code

Rule Type: Permanent and Emergency

1. Finding/nature of emergency (Emergency Rule only):

This rule is needed to clarify and modify the procedures for the review and analysis of new administrative rules, WEPA compliance determinations for various permits, plan approvals and other actions and policies, and other relevant changes, in order to assure that the general intent of the ch. NR 150 revision is being met, that potential procedural questions or legal challenges do not invalidate years of work and public engagement on new rule packages or other actions and policies. A new emergency rule and following permanent rule is needed to ensure processing and enactment of rule proposals in a manner that is consistent with past WEPA compliance approaches that have been upheld by the courts, along with clarifying publication requirements, WEPA compliance determinations for various permits, plan approvals and other actions and policies.

2. Detailed description of the objective of the proposed rule:

Chapter NR 150 was revised and went into effect April 1, 2014. The previous version of the code classified most administrative rules as "Type 3 or 4 actions", a classification requiring some form of public notice and no additional environmental analysis. The rule changes would further clarify that emergency rules are "minor actions" requiring no additional environmental analysis, and that the process for developing permanent rules are "equivalent analysis actions," as well as clarifying the various applicable definitions related to those rules and actions. These changes would more clearly outline the required review process for administrative rules, and provide further clarification through refining definitions. Additional changes to clarify publication requirements, WEPA compliance determinations for various permits, plan approvals and other actions and policies, and other changes, generally consistent with the intent of the rule as presented to the public and approved by the NRB, will also be included in the emergency and permanent rule.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The rule change would clarify and support the general intent of what was presented to the public through the Natural Resources Board process for development of the current ch. NR 150.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

The department is responsible for compliance with department rules and procedures pursuant to ss. 1.11 and 227.11, Stats.

Pursuant to s. 227.24 (1) (a) Stats., the department finds that putting this rule into effect prior to the time it would take effect using the permanent rule process is necessary to ensure that the department and public time involved in lengthy rule processes for current rules is not compromised by a confusing definition in ch. NR 150.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

80 hours.

6. List with description of all entities that may be affected by the proposed rule:

This clarifies internal procedures for rules development, as well as WEPA compliance for various actions and policies. WEPA (and therefore ch. NR 150) compliance is a requirement for all Department programs. DNR staff and many regulated entities and interested parties involved in the full array of DNR activities, including policy making, planning, and permitting, may have an interest in the revised rule.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

None.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

None.

9. Anticipated number, month and locations of public hearings:

The Department anticipates holding one public hearing.

The Department will hold this hearing in Madison to seek public comment on the changes to the rule.

Contact Person: James Pardee, 608-266-0426